

SENATE RECORD VOTE ANALYSIS

104th Congress
1st Session

Vote No. 358

August 3, 1995, 10:29 p.m.
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DEFENSE AUTHORIZATION/Missile Defense, duty to provide

SUBJECT: National Defense Authorization Act for fiscal year 1996 . . . S. 1026. Cohen amendment No. 2089.

ACTION: AMENDMENT AGREED TO, 69-26

SYNOPSIS: As reported, S. 1026, the National Defense Authorization Act for fiscal year 1996, will authorize \$264.7 billion in total budget authority for the Department of Defense, national security programs of the Department of Energy, civil defense, and military construction accounts. This amount is \$7 billion more than requested (\$5.3 billion more for procurement and \$1.7 billion more for research and development), and is \$2.6 billion less than the amount approved in the House-passed bill.

The Cohen amendment would express the sense of Congress:

- that it is in the supreme interest of the United States to defend itself from the threat of limited ballistic missile attack, whatever its source;
- the deployment of a multiple site ground-based national missile defense system to protect against limited ballistic missile attack can strengthen strategic stability and deterrence;
- the policies, programs, and requirements of the missile defense section of this Act can be accomplished through processes specified within, or consistent with, the Anti-Ballistic Missile (ABM) Treaty, which anticipates the need and provides the means for amendment to the Treaty;
- the President is urged to initiate negotiations with the Russian Federation to amend the ABM Treaty as necessary to provide for the multiple-site national missile defense systems as specified in this Act to protect the United States from limited ballistic missile attack; and
- if these negotiations fail, the President is urged to consult with the Senate about the option of withdrawing from the ABM Treaty in accordance with Article XV of the Treaty.

The amendment is based on several findings, including that Articles XIII and XIV of the ABM Treaty establish means for amending the treaty, and Article XV allows withdrawal from the treaty upon six-months notice.

(See other side)

YEAS (69)			NAYS (26)		NOT VOTING (5)	
Republicans (51 or 98%)	Democrats (18 or 42%)		Republicans (1 or 2%)	Democrats (25 or 58%)	Republicans (2)	Democrats (3)
Abraham	Hutchison	Baucus	Hatfield	Akaka	Helms ⁻²	Dodd ⁻²
Ashcroft	Inhofe	Breaux		Biden	Smith ⁻²	Inouye ⁻²
Bennett	Jeffords	Bryan		Bingaman		Johnston ⁻²
Bond	Kassebaum	Conrad		Boxer		
Brown	Kempthorne	Exon		Bradley		
Burns	Kyl	Feinstein		Bumpers		
Campbell	Lott	Ford		Byrd		
Chafee	Lugar	Graham		Daschle		
Coats	Mack	Heflin		Dorgan		
Cochran	McCain	Hollings		Feingold		
Cohen	McConnell	Kerrey		Glenn		
Coverdell	Murkowski	Kohl		Harkin		
Craig	Nickles	Lieberman		Kennedy		
D'Amato	Packwood	Mikulski		Kerry		
DeWine	Pressler	Nunn		Lautenberg		
Dole	Roth	Pryor		Leahy		
Domenici	Santorum	Reid		Levin		
Faircloth	Shelby	Robb		Moseley-Braun		
Frist	Simpson			Moynihan		
Gorton	Snowe			Murray		
Gramm	Specter			Pell		
Grams	Stevens			Rockefeller		
Grassley	Thomas			Sarbanes		
Gregg	Thompson			Simon		
Hatch	Thurmond			Wellstone		
	Warner					

EXPLANATION OF ABSENCE:

- 1—Official Business
- 2—Necessarily Absent
- 3—Illness
- 4—Other

SYMBOLS:

- AY—Announced Yea
- AN—Announced Nay
- PY—Paired Yea
- PN—Paired Nay

Those favoring the amendment contended:

The Senate on close votes has rejected efforts to modify the language in the bill on building a limited strategic missile defense system. However, the debate on the Levin amendment in particular raised issues which we felt needed clarification. Accordingly, we have offered the Cohen amendment. The Cohen amendment would make clear that the Senate expects President Clinton to negotiate with Russia on amending the Anti-Ballistic Missile (ABM) Treaty to allow each country to build a limited missile defense. If the President is unsuccessful, he is expected to consult with Congress on the possibility of withdrawing from the Treaty with 6-months notice, which is clearly allowed by the Treaty. Senators who suggest that this amendment is inconsistent with the underlying bill language, in our opinion, are mistaken. The prohibition on the President's actions did not specifically reference negotiations. Further, those Senators know full well that the intent of that bill language is to prevent President Clinton from attempting by executive fiat to extend the ABM Treaty to cover theater missile defenses as well as strategic defenses. This Administration has given us reason to worry in that regard. Additionally, considering that the underlying bill language does not specifically preclude negotiations, and that the Cohen amendment specifically calls on the President to conduct negotiations, we think that the Cohen amendment would correct any ambiguity that exists. Obviously, the statement which clearly urges negotiations would have to overrule the statement that gives our colleagues the impression that negotiations would not be allowed. Negotiations would be permitted; at the same time, executive decisions to make changes in the ABM Treaty that end-run the constitutional requirement for Senate approval would still be prohibited. The Cohen amendment would not leave any question that the appropriate policy for the United States is to develop and deploy a limited strategic missile defense system within the next 10 years. The threat is very real, and it is simply unacceptable to tell the American people that we will have no defense against a limited or accidental ballistic missile attack. The amendment would not require the United States to withdraw from the ABM Treaty if an agreement cannot be reached with Russia, but it would make clear that failing to build a defensive system is not an option. We totally agree with the Cohen amendment. We think it is possible to amend the ABM Treaty, given past expressions of support by Russia for limited defensive systems, but if it is not it is clear to us where our primary duty lies. If it reaches that point, we will debate with our colleagues the advisability of withdrawing from the ABM Treaty. By agreeing to the Cohen amendment, the Senate will be signalling that while the language of the bill could be interpreted as allowing the ABM Treaty to be ignored, that is not its intent. Instead, the Senate expects the processes within the ABM Treaty for amending it or withdrawing from it to be followed. We support this clarifying amendment, and urge our colleagues to give it their support.

While favoring the amendment, some Senators expressed the following reservations:

We agree with the statements in the Cohen amendment, but we note that they do not have the force of law because they are only sense-of-the-Senate declarations. The bill language which we find objectionable, particularly the language which we believe bars the President from negotiating on the ABM Treaty, has the force of law. As the bill is drafted, we are telling Russia we are going to abrogate the ABM Treaty and we are not even willing to talk about it. Russia has indicated that if we take this step it will not follow suit, but it will not ratify SALT II and it will probably abandon SALT I. The result will be that we will build a defense system capable of stopping a few warheads fired at us, but at the same time Russia will not destroy thousands of warheads aimed at us that are slated to be destroyed under SALT I and SALT II. This result does not strike us as a very good trade. We favor a national missile defense, but not at this price. The Cohen amendment, while agreeable in its sentiments, would not correct the defects in the underlying legislation that will almost certainly stymie Russian nuclear disarmament. We will vote in favor of this amendment, but note that further corrections are necessary.

Those opposing the amendment contended:

The bill will bar the President from prescribing, enforcing, implementing, or "taking any other action" to apply the ABM Treaty to certain activities. We take that ban to mean that the President will not be permitted to negotiate with Russia on the application of the ABM Treaty. Our colleagues tell us that is not their intent, but the language to us is unambiguous. The Cohen amendment, though, would specifically state that the President is expected to negotiate with Russia on the modification of the ABM Treaty. This amendment, if agreed to, would make the bill internally inconsistent. We therefore oppose the Cohen amendment.